

SUPREME COURT OF RHODE ISLAND

Dawn M. Parrillo, Administratrix of the Estate of Daniel Santos v. Rhode Island Hospital et al.

202 A.3d 942 (R.I. 2019) · No. 2017-235-Appeal (PC 14-91) · Decided March 14, 2019

SUMMARY

The Rhode Island Supreme Court affirmed summary judgment for a physician in a wrongful-death medical-malpractice action. The court held that Rhode Island's wrongful-death statute of limitations is triggered by discovery of the wrongful act, neglect, or default, rather than discovery of the identity of the alleged tortfeasor. Because the plaintiff knew or should have known of the alleged wrongful conduct within the statutory period but added the physician more than three years after the decedent's death, the claim was time-barred.

CASE DETAILS

COURT	Supreme Court of Rhode Island
WRITING FOR THE COURT	Justice Francis X. Flaherty; Chief Justice Suttell; Justice Flaherty; Justice Robinson; Justice Indeglia
JURISDICTION	Rhode Island
DECIDED	March 14, 2019
DOCKET	2017-235-Appeal (PC 14-91)
DISPOSITION	affirmed
PROCEDURAL POSTURE	Plaintiff appealed from summary judgment entered for Shea Gregg, M.D., in a wrongful-death action on the ground that the statutory limitations period had expired.
STANDARD OF REVIEW	Summary judgment is reviewed de novo. The court examines the case from the vantage point of the trial justice and views the evidence in the light most favorable to the nonmoving party. Summary judgment is appropriate when the record shows no genuine issue of material fact and the moving party is entitled to judgment as a matter of law.
PRECEDENTIAL VALUE	Published opinion of the Supreme Court of Rhode Island; precedential.
PARTIES	Dawn M. Parrillo, Administratrix of the Estate of Daniel Santos v. Rhode Island Hospital et al., Shea Gregg, M.D.

TOPICS

wrongful death

statute of limitations

summary judgment

statutory interpretation

medical malpractice

PRACTICE AREAS

wrongful death

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civil procedure

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summary judgment

QUESTIONS PRESENTED

1. Whether Rhode Island's wrongful-death statute of limitations is tolled until a plaintiff discovers the identity of a particular alleged tortfeasor.
2. Whether Parrillo's claim against Dr. Gregg was time-barred under Rhode Island General Laws § 10-7-2.
3. Whether summary judgment was properly entered for Dr. Gregg.

HOLDINGS

1. Under Rhode Island General Laws § 10-7-2, the limitations period is triggered by discovery, or the reasonable-diligence discoverability, of the wrongful act, neglect, or default causing death, not by discovery of the identity of the alleged tortfeasor.
2. Parrillo's wrongful-death claim against Dr. Gregg was time-barred because the alleged wrongful conduct was discoverable no later than August 23, 2012, when she received Santos's medical records, and Gregg was not added until more than three years later.
3. Summary judgment for Dr. Gregg was proper because the wrongful-death claim against him was barred by the statute of limitations.

KEY QUOTATIONS

“The issues raised in this appeal can be distilled to one question: Is the statute of limitations for wrongful death actions contained in G.L. 1956 § 10-7-2 tolled when a plaintiff does not timely discover the identity of an alleged tortfeasor?” (at 944)

“We answer that it is not.” (at 944)

“Significantly, “the Wrongful Death Act’s focus [is] on the act that caused the death rather than the actors[.]” (at 945)

“It is our conclusion, therefore, that Parrillo’s wrongful death claim against Dr. Gregg is time barred.” (at 953)

FACTUAL BACKGROUND

Daniel Santos died on February 22, 2012, several days after an automobile accident and hospitalization at Rhode Island Hospital. Parrillo requested his medical records in May 2012 and received them on August 23, 2012 because she suspected negligent treatment. She filed a wrongful-death action in January 2014 but did not identify Dr. Gregg as a defendant until a second amended complaint filed in 2016, after the hospital identified him as an attending physician. The alleged negligence attributed to Gregg was materially the same conduct

alleged against the original defendants and was discoverable, at the latest, when Parrillo received the medical records.

PROCEDURAL HISTORY

Parrillo filed a wrongful-death action against Rhode Island Hospital and other defendants in January 2014 after receiving Santos's medical records. In 2016, after Rhode Island Hospital identified Gregg as an attending physician, the Superior Court permitted Parrillo to amend the complaint to add him. The Superior Court granted Gregg summary judgment because the wrongful-death statute of limitations had expired, and the Rhode Island Supreme Court affirmed.

DISPOSITION

affirmed

REMAND INSTRUCTIONS

The papers were remanded to the Superior Court; no further substantive proceedings were ordered.

CASES CITED

- DeLong v. Rhode Island Sports Center, Inc., 182 A.3d 1129, 1134 (R.I. 2018)
- Sullo v. Greenberg, 68 A.3d 404, 406 (R.I. 2013)
- Sacco v. Cranston School Department, 53 A.3d 147, 150 (R.I. 2012)
- Sola v. Leighton, 45 A.3d 502, 506 (R.I. 2012)
- Plunkett v. State, 869 A.2d 1185, 1187 (R.I. 2005)
- Pari v. Corwin, 620 A.2d 86, 87 (R.I. 1993)
- O'Connell v. Walmsley, 156 A.3d 422, 428 (R.I. 2017)
- Ashley v. Kupchan, 618 A.2d 1268, 1269-70 (R.I. 1993)
- Benner v. J.H. Lynch & Sons, Inc., 641 A.2d 332, 333-38 (R.I. 1994)
- O'Sullivan v. Rhode Island Hospital, 874 A.2d 179, 180-89 (R.I. 2005)
- Renaud v. Sigma-Aldrich Corporation, 662 A.2d 711, 714-15 (R.I. 1995)
- Grossi v. Miriam Hospital, 689 A.2d 403, 404 (R.I. 1997)
- Anthony v. Abbott Laboratories, 490 A.2d 43, 46 (R.I. 1985)
- Meyette v. Leach, 651 A.2d 1229, 1229 (R.I. 1994) (mem.)
- Dionne v. Baute, 589 A.2d 833, 835 (R.I. 1991)
- United States v. Kubrick, 444 U.S. 111, 125 (1979)
- Ryan v. Roman Catholic Bishop of Providence, 941 A.2d 174, 180-81 (R.I. 2008)
- Gaither v. City Hospital, Inc., 487 S.E.2d 901, 909 (W. Va. 1997)